

Page 1 of 22

Permit No.: WA-005067-9

Issuance Date: June 29, 2006

Effective Date: August 1, 2006

Expiration Date: July 31, 2011

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WASTE DISCHARGE PERMIT NO. WA-005067-9

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
YAKIMA, WASHINGTON 98902

In compliance with the provisions of  
The State of Washington Water Pollution Control Law  
Chapter 90.48 Revised Code of Washington  
and  
The Federal Water Pollution Control Act  
(The Clean Water Act)  
Title 33 United States Code, Section 1251 et seq.

**DEL MONTE FOODS PLANT #125**  
**PO BOX 1528**  
**YAKIMA, WA 98907**

Facility Location:

108 W. Walnut  
Yakima, WA 98902

Receiving Water:

Yakima River, at River Mile 108.5, via the City  
of Yakima storm water collection system

Water Body I.D. No.:

WA-37-1040

Discharge Location:

Latitude: 46° 35' 47" N  
Longitude: 120° 30' 21" W

Industry Type:

Fruit processing and canning

Is authorized to discharge in accordance with the special and general conditions which follow.

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Denise E. Mills, LHG  
Section Manager  
Water Quality Program  
Central Region Office  
Washington State Department of Ecology

## TABLE OF CONTENTS

	<u>Page</u>
SUMMARY OF PERMIT REPORT SUBMITTALS.....	4
SPECIAL CONDITIONS.....	5
S1.    DISCHARGE LIMITATIONS .....	5
A.    Can Cooling Wastewater Discharge .....	5
S2.    MONITORING REQUIREMENTS .....	6
A.    Monitoring Schedule.....	6
B.    Sampling and Analysis Plan Monitoring .....	7
C.    Sampling and Analytical Procedures .....	7
D.    Flow Measurement.....	7
E.    Laboratory Accreditation .....	7
S3.    REPORTING AND RECORDKEEPING REQUIREMENTS .....	7
A.    Reporting.....	8
B.    Records Retention .....	8
C.    Recording of Results .....	8
D.    Additional Monitoring by the Permittee .....	9
E.    Twenty-four Hour Notice of Noncompliance Reporting .....	9
F.    Other Noncompliance Reporting. ....	10
G.    Maintaining a Copy of This Permit.....	10
S4.    OPERATION AND MAINTENANCE .....	10
A.    Operations and Maintenance Manual.....	10
B.    Bypass Procedures .....	11
C.    Duty to Mitigate .....	13
S5.    APPLICATION FOR PERMIT RENEWAL .....	13
S6.    SOLID WASTE DISPOSAL .....	13
A.    Solid Waste Handling .....	13
B.    Leachate .....	13
C.    Solid Waste Control Plan .....	14
S7.    SPILL PLAN.....	14
S8.    SCHEDULE OF COMPLIANCE.....	14
B.    Sampling and Analysis Plan.....	15
C.    Work Plan Completion letter .....	15
D.    Operation and Maintenance Certification .....	15
E.    Monitoring Summary Report .....	15
GENERAL CONDITIONS .....	16
G1.    SIGNATURE AUTHORIZATION/DELEGATION.....	16
G2.    RIGHT OF INSPECTION AND ENTRY .....	17
G3.    PERMIT ACTIONS.....	17
G4.    REPORTING PLANNED CHANGES.....	18

G5.	PLAN REVIEW REQUIRED .....	19
G6.	COMPLIANCE WITH OTHER LAWS AND STATUTES .....	19
G7.	TRANSFER OF THIS PERMIT .....	19
G8.	REDUCED PRODUCTION FOR COMPLIANCE .....	20
G9.	REMOVED SUBSTANCES .....	20
G10.	DUTY TO PROVIDE INFORMATION .....	20
G11.	OTHER REQUIREMENTS OF 40 CFR .....	20
G12.	ADDITIONAL MONITORING .....	20
G13.	PAYMENT OF FEES .....	20
G14.	PENALTIES FOR VIOLATING PERMIT CONDITIONS .....	20
G15.	UPSET .....	21
G16.	PROPERTY RIGHTS .....	21
G17.	DUTY TO COMPLY .....	21
G18.	TOXIC POLLUTANTS .....	22
G19.	PENALTIES FOR TAMPERING .....	22
G20.	REPORTING ANTICIPATED NONCOMPLIANCE .....	22
G21.	REPORTING OTHER INFORMATION .....	22
G22.	COMPLIANCE SCHEDULES .....	22

### SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S3.A	Discharge Monitoring Report	Monthly	September 15, 2006
S3.E	Noncompliance Notification	As necessary	As necessary
S4.A	Operations and Maintenance Manual Update	1/permit cycle	As necessary
S5.	Application for Permit Renewal	1/permit cycle	July 31, 2010
S6.C	Updated Solid Waste Control Plan	1/permit cycle	May 31, 2008
S6.C	Modification to Solid Waste Plan	As necessary	May 31, 2008
S7.	Updated Spill Plan	As necessary	May 31, 2008
S8.A	Schedule of Compliance: Work Plan	1/permit cycle	August 15, 2006
S8.B	Sampling and Analysis Plan	1/permit cycle	August 31, 2006
S8.C	Work Plan Completion Letter	1/permit cycle	September 15, 2006
S8.D	Operation and Maintenance Certification	1/permit cycle	October 15, 2006
S8.E	SAP Monitoring Summary Report	1/permit cycle	July 31, 2010
G1.	Notice of Change in Authorization	As necessary	As necessary
G4.	Permit Application for Substantive Changes to the Discharge	As necessary	As necessary
G5.	Engineering Report for Construction or Modification Activities	As necessary	As necessary
G7	Notice of Permit Transfer	As necessary	As necessary
G20.	Reporting Anticipated Non-compliance	As necessary	As necessary

## SPECIAL CONDITIONS

### S1. DISCHARGE LIMITATIONS

#### A. Can Cooling Wastewater Discharge

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit.

The discharge of any of the following pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.

Beginning on **August 1, 2006** and lasting through **July 31, 2011**, the Permittee is authorized to discharge contact can cooling water to the City of Yakima's storm sewer system subject to complying with the following limitations:

EFFLUENT LIMITATIONS: OUTFALL # 001		
Parameter	Average Monthly <sup>a</sup>	Maximum Daily <sup>b</sup>
Flow <sup>c</sup> , in MGD	0.35	0.48
FOG, in mg/L; lbs/day	10; 29.2	15; 60.0
BOD <sub>5</sub> , in mg/L; lbs/day	10; 29.2	15; 60.0
TSS, in mg/L; lbs/day	10; 29.2	15; 60.0
TRC, in mg/L; lbs/day	Not applicable	0.5; 2.0
Temperature, °C	Not applicable	46
pH <sup>d</sup>	Daily minimum is equal to or greater than 6 and the daily maximum is less than or equal to 9.	
a-The average monthly effluent limitation is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. If only one sample is taken during the calendar month, the maximum daily effluent limitation applies to that sample.		
b-The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For other units of measurement, the daily discharge is the average measurement of the pollutant over the day.		
c-The entire discharged flow shall be filtered through, at least, a ¼-inch mesh screen. No solids larger than ¼-inch shall be discharged from the outfall.		
d-Indicates the range of permitted values. The instantaneous maximum and minimum pH shall be reported monthly.		

## S2. MONITORING REQUIREMENTS

### A. Monitoring Schedule

The Permittee shall monitor in accordance with the following schedule:

Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
Flow	MGD	Effluent <sup>a</sup>	Daily <sup>b</sup>	Meter
FOG	mg/L	Effluent	1/month <sup>c</sup>	24-hour Composite <sup>d</sup>
FOG	lbs/day	Effluent	1/month	Calculation <sup>e</sup>
BOD <sub>5</sub>	mg/L	Effluent	1/month	24-hour Composite
BOD <sub>5</sub>	lbs/day	Effluent	1/month	Calculation
TSS	mg/L	Effluent	1/month	24-hour Composite
TSS	lbs/day	Effluent	1/month	Calculation
TRC	mg/L	Effluent	1/month	Grab <sup>f</sup>
TRC	lbs/day	Effluent	1/month	Calculation
Alkalinity	mg/L, as CaCO <sub>3</sub>	Effluent	1/year <sup>g</sup>	Grab
Hardness	mg/L, as CaCO <sub>3</sub>	Effluent	1/year	Grab
Temperature	°C	Effluent	SAP <sup>h</sup>	SAP
pH	Standard Units	Effluent	1/week	Grab
Copper	mg/L	Stormwater <sup>i</sup> Effluent	2/year <sup>j</sup>	Grab
Lead	mg/L	Stormwater Effluent	2/year	Grab

a-The effluent sampling point shall be at the discharge point to the storm sewer.

b-“Daily” means 7 days per week. If there is no daily discharge, then “no discharge” shall be written on the corresponding submitted DMR.

c-“1/month” means once every calendar month while a discharge is occurring. If there is no discharge during a calendar month, then “no discharge” shall be written on the corresponding submitted DMR.

d-“24-hr composite” means a series of, at least, 4 individual grab samples collected over a 24-hour period at selected intervals based on an increment of either flow or time, during typical production, and combined into a single container to be subsequently analyzed as one sample.

e-“Calculation” means utilizing the following algorithm to determine the effluent mass loading:  
Concentration (in mg/L) X Flow (in MGD) X Conversion Factor (8.34) = lbs/day.

f-“Grab” means an individual sample collected in less than 15 minutes.

g-“1/year” means once every calendar year, during typical production, and on a rotational basis throughout the months of the facility’s annual processing season.

h –SAP means monitoring shall be in accordance with the approved Sampling and Analysis Plan (S8.B.).

i-Stormwater and effluent copper and lead samples shall be taken concurrently, or as closely together as possible. Stormwater sampling shall occur before the cooling water discharge enters the stormwater pipe.

j-“2/year” means twice during each pear processing season. Samples shall not be taken in the same month.

**B. Sampling and Analysis Plan Monitoring**

The Permittee shall monitor according to the approved Sampling and Analysis Plan (see S8.B.).

**C. Sampling and Analytical Procedures**

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality. Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136.

**D. Flow Measurement**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations and at a minimum frequency of at least one calibration per year. Calibration records shall be maintained for at least 3 years.

**E. Laboratory Accreditation**

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

**S3. REPORTING AND RECORDKEEPING REQUIREMENTS**

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

**A. Reporting**

The first monitoring period begins on **August 1, 2006**. Monitoring results shall be submitted monthly. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by the Department. DMR forms shall be postmarked or received no later than the 15th day of the month following the completed monitoring period, unless otherwise specified in this permit. Priority pollutant analysis data shall be submitted no later than 45 days following the monitoring period. The report(s) shall be sent to: **Permit Data Systems Manager, Department of Ecology, Central Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, Washington 98902.**

All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected.

Discharge Monitoring Report forms must be submitted monthly whether or not the facility was discharging. If there was no discharge during a given monitoring period, submit the form as required with the words "no discharge" entered in place of the monitoring results.

**B. Records Retention**

The Permittee shall retain records of all monitoring information for a minimum of 3 years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

**C. Recording of Results**

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.



**D. Additional Monitoring by the Permittee**

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

**E. Twenty-four Hour Notice of Noncompliance Reporting**

1. The Permittee must report the following occurrences of noncompliance by telephone, to Ecology at 509/575-2490, within 24 hours from the time the Permittee becomes aware of any of the following circumstances:
  - a. any noncompliance that may endanger health or the environment;
  - b. any unanticipated **bypass** that exceeds any effluent limitation in the permit (See Part S4.B., "Bypass Procedures");
  - c. any **upset** that exceeds any effluent limitation in the permit (See G.15, "Upset");  
or
  - d. any violation of a maximum daily or instantaneous maximum discharge limitation for any of the pollutants in S1.A..
2. The Permittee must also provide a written submission within five days of the time that the Permittee becomes aware of any event required to be reported under subpart 1, above. The written submission must contain:
  - a. a description of the noncompliance and its cause;
  - b. the period of noncompliance, including exact dates and times;
  - c. the estimated time noncompliance is expected to continue if it has not been corrected;
  - d. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and
  - e. if the noncompliance involves an overflow prior to the treatment works, an estimate of the quantity (in gallons) of untreated overflow.
3. Ecology may waive the written report on a case-by-case basis if the oral report has been received within 24 hours of the noncompliance.

4. Reports must be submitted to the address in S3. ("REPORTING AND RECORDKEEPING REQUIREMENTS").

**F. Other Noncompliance Reporting.**

The Permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for S3.A ("Reporting") are submitted. The reports must contain the information listed in paragraph E above, ("Twenty-four Hour Notice of Noncompliance Reporting"). Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

**G. Maintaining a Copy of This Permit**

A copy of this permit must be kept at the facility and be made available upon request to Department of Ecology inspectors.

**S4. OPERATION AND MAINTENANCE**

The Permittee shall, at all times, properly operate and maintain all facilities or systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

**A. Operations and Maintenance Manual**

The Operations and Maintenance (O&M) Manual shall be reviewed by the Permittee at least annually. Substantial changes or updates to the O&M Manual shall be submitted to the Department whenever they are incorporated into the manual.

The approved O&M Manual shall be kept available at the permitted facility and all operators shall follow the instructions and procedures of this manual.

In addition to the requirements of WAC 173-240-150(1) and (2), the O&M Manual shall include:

1. Emergency procedures for plant shutdown and cleanup in event of wastewater system upset or failure.
2. Plant maintenance procedures which may contribute to the generation of container cooling water.
3. Any directions to maintenance staff when cleaning, or maintaining other equipment or performing other tasks which are necessary to protect the operation of the cooling tower system (e.g. defining maximum allowable discharge rate for draining a tank, blocking all floor drains before beginning the overhaul of a stationary engine.)
4. The cooling tower process control monitoring schedule.
5. The approved Sampling and Analysis Plan for environmental monitoring and cooling tower efficiency assessment shall be attached to the O&M Manual.

**B. Bypass Procedures**

Bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited. The Department may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, or 3) is applicable.

1. Bypass for Essential Maintenance without the Potential to Cause Violation of Permit Limits or Conditions.

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health as determined by the Department prior to the bypass. The Permittee shall submit prior notice, if possible, at least 10 days before the date of the bypass.

2. Bypass Which is Unavoidable, Unanticipated, and Results in Noncompliance of this Permit.

This bypass is permitted only if:

- a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

- b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment facility.
  - c. The Department is properly notified of the bypass as required in condition S3.E. of this permit.
3. Bypass which is Anticipated and has the Potential to Result in Noncompliance of this Permit.

The Permittee shall notify the Department at least 30 days before the planned date of bypass. The notice shall contain (1) a description of the bypass and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of bypass under each alternative; (5) a recommendation as to the preferred alternative for conducting the bypass; (6) the projected date of bypass initiation; (7) a statement of compliance with SEPA; (8) a request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedance of any water quality standard is anticipated; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the engineering report or facilities plan and plans and specifications and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

The Department will consider the following prior to issuing an administrative order for this type bypass:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.
- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes

to another treatment facility.

- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, the Department will approve or deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by the Department under RCW 90.48.120.

### **C. Duty to Mitigate**

The Permittee is required to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

## **S5. APPLICATION FOR PERMIT RENEWAL**

The Permittee shall submit an application for renewal of this permit by **July 31, 2010**.

## **S6. SOLID WASTE DISPOSAL**

### **A. Solid Waste Handling**

The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into state ground or surface water.

### **B. Leachate**

The Permittee shall not allow leachate from its solid waste material to enter state waters without providing all known, available and reasonable methods of treatment, nor allow such leachate to cause violations of the State Surface Water Quality Standards, Chapter 173-201A WAC, or the State Ground Water Quality Standards, Chapter 173-200 WAC.

The Permittee shall apply for a permit or permit modification as may be required for such discharges to state ground or surface waters.

### **C. Solid Waste Control Plan**

The Permittee shall submit an updated solid waste control plan to the Department no later than **May 31, 2008**. This plan shall include all solid wastes with the exception of those solid wastes regulated by Chapter 173-303 WAC (Dangerous Waste Regulations). The plan shall include at a minimum a description, source, generation rate, and disposal methods of these solid wastes. This plan shall not be at variance with any approved local solid waste management plan. Any proposed revision or modification of the solid waste handling plan must be submitted to the Department. The Permittee shall comply with the plan and any modifications thereof.

## **S7. SPILL PLAN**

By **May 31, 2008**, the Permittee shall submit to the Department an updated spill control plan for the prevention, containment, and control of spills or unplanned releases. The Permittee shall review the plan at least annually and update the Spill Plan as needed. The plan and any supplements shall be followed throughout the term of the permit.

The updated spill control plan shall include the following:

- A description of operator training to implement the plan.
- A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- A list of all oil and petroleum products, materials, which, when spilled or otherwise released into the environment, are designated Dangerous Waste (DW) or Extremely Hazardous Waste (EHW) by the procedures set forth in WAC 173-303-070, or other materials which may become pollutants or cause pollution upon reaching state's waters.

Plans and manuals required by 40 CFR Part 112, contingency plans required by Chapter 173-303 WAC, or other plans required by other agencies which meet the intent of this section may be submitted.

## **S8. SCHEDULE OF COMPLIANCE**

### **A. Work Plan**

The Permittee shall, no later than **August 15, 2006**, submit a work plan for Departmental approval, on the installation of a heat exchanger and relocation of the cooling tower. The plan shall also include monitoring to assess the efficiency of the

cooling tower and determine optimal operating conditions to achieve the lowest consistent discharge temperature.

**B. Sampling and Analysis Plan**

The Permittee shall submit, no later than **August 31, 2006**, for Department approval a plan to assess the impact of the discharge on the receiving water to determine the point at which the water quality criterion for temperature can be met. The approved plan shall be attached to the O&M Manual. The sampling locations and monitoring requirements outlined in the plan shall constitute enforceable requirements of the permit.

**C. Work Plan Completion letter**

The Permittee shall, no later than **September 15, 2006**, submit a letter to the Department certifying completion of the installation of the heat exchanger and relocation of the cooling tower.

**D. Operation and Maintenance Certification**

The Permittee shall, no later than **October 15, 2006**, submit to the Department a letter from an independent cooling tower service supplier certifying the cooling is maintained properly and its operation is according to specification.

**E. Monitoring Summary Report**

The Permittee shall submit a summary monitoring report of the environmental monitoring and cooling tower performance assessment monitoring by **July 31, 2010**.

## GENERAL CONDITIONS

### G1. SIGNATURE AUTHORIZATION/DELEGATION

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - 1. The authorization is made in writing by a person described above and submitted to the Department.
  - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false



information, including the possibility of fine and imprisonment for knowing violations.

## **G2. RIGHT OF INSPECTION AND ENTRY**

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

## **G3. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
  - 1. Violation of any permit term or condition.
  - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
  - 3. A material change in quantity or type of waste disposal.
  - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR part 122.64(3)].
  - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR part 122.64(4)].

6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
  7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:
1. A material change in the condition of the waters of the state.
  2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
  3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
  4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
  5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
  6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
  7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
  2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G7) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new Permittee.

#### **G4. REPORTING PLANNED CHANGES**

The Permittee shall, as soon as possible, but no later than 60 days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: (1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); (2) a significant change in the nature or an increase in quantity of pollutants discharged; or (3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

## **G5. PLAN REVIEW REQUIRED**

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least 180 days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

## **G6. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

## **G7. TRANSFER OF THIS PERMIT**

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

### **A. Transfers by Modification**

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

### **B. Automatic Transfers**

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least 30 days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

#### **G8. REDUCED PRODUCTION FOR COMPLIANCE**

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

#### **G9. REMOVED SUBSTANCES**

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

#### **G10. DUTY TO PROVIDE INFORMATION**

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit.

#### **G11. OTHER REQUIREMENTS OF 40 CFR**

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

#### **G12. ADDITIONAL MONITORING**

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

#### **G13. PAYMENT OF FEES**

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

#### **G14. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to \$10,000 and costs of prosecution, or by imprisonment in the discretion

of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to \$10,000 for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

#### **G15. UPSET**

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in condition S3.E; and 4) the Permittee complied with any remedial measures required under S4.C of this permit.

In any enforcement proceedings the Permittee seeking to establish the occurrence of an upset has the burden of proof.

#### **G16. PROPERTY RIGHTS**

This permit does not convey any property rights of any sort, or any exclusive privilege.

#### **G17. DUTY TO COMPLY**

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

**G18. TOXIC POLLUTANTS**

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

**G19. PENALTIES FOR TAMPERING**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

**G20. REPORTING ANTICIPATED NONCOMPLIANCE**

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least 180 days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.

**G21. REPORTING OTHER INFORMATION**

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**G22. COMPLIANCE SCHEDULES**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.